

Kloppenburger, German Federal Constitutional Court: decision of 8 April, 1987, case number: 2 BvR 687/ 85, BVerfGE 75, 223, with annotation by Wölker, EuGRZ 1988, 97.

The German Federal Finance Court (Bundesfinanzhof) did not accept the direct effect of Community directives, notably refusing to follow the decision on the European Court in the Kloppenburg case. The German Constitutional Court quashed this rebellion against the supremacy of Community law interpretation by the ECJ by overturning the German Federal Finance Court's decision in Kloppenburg on grounds of Art. 101 para. 1 GG, the right to the lawful judge. The German Constitutional Court affirmed that it would quash any decision of a German court that failed to comply with a preliminary ruling from the European Court. It regards such a failure to comply with the European Court's ruling as a violation of Article 101 of the Basic Law. The Court will find a breach of Article 101 if a German court disregards the obligation to refer a question for a preliminary ruling in an indefensible manner.